7701622/2023/TW-LTR-I-SOW01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Revision Petition filed by Sri Datla Venkatapathi Raju, S/o. Datla Venkatapathi Raju, Laxminarasapuram Village, Anaparthi Mandal, Alluri Siitharamaraju District erstwhile East Godavari District against the orders of the Additional Agent to Government Rampachodavaram, Alluri Siitharamaraju District in CMA No.61/2004, dated: 17.09.2005 in respect of land an extent of Acs.1.44 in Sy.No.21/2 situated at Dusaripamu (V), Rajavommangi Mandal, Alluri Siitharamaraju District erstwhile East Godavari District – Dismissed-Orders- Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.47 **Dated:27.07.2023**

Read the following:

1. Revision Petition filed by Sri Datla Venkatapathi Raju, S/o. Datla Venkatapathi Raju, R/o. Laxminarasapuram Village, Anaparthi Mandal, Alluri Sitharamaraju District before the Hon'ble Dy.CM(TW), dt.22.10.2005 together with its enclosures.

2. Hon'ble High Court order in W.P.No. 24382 of 2005, dt.16.11.2005 filed by Sri Datla Venkatapathi Raju, S/o. Datla Venkatapathi Raju, R/o. Laxminarasapuram Village, Anaparthi Mandal, Alluri Sitharamaraju District.

3. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A.No.38/2014, Dated: 17.05.2010.

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O R D E R :

In the reference 1st read above, Revision Petition filed by Sri Datla Venkatapathi Raju, S/o. late Datla Venkatapathi Raju, Laxminarasapuram Village, Anaparthi Mandal, Alluri Siitharamaraju District erstwhile East Godavari District against the orders of the Additional Agent to Government Rampachodavaram, Alluri Siitharamaraju District in CMA No.61/2004, dated:17.09.2005 in respect of land an extent of Acs.1.44 in Sy.No.21/2 situated at Dusaripamu (V), Rajavommangi Mandal, Alluri Siitharamaraju District erstwhile East Godavari District.

(P.T.O)

2. **Brief history of the subject case:**

a. The Tribal Petitioners Sri Pulli Venkanna, S/o. Appanna, Dusaripamu (V), Rajavommangi Mandal, Alluri Siitharamaraju District has filed a Complaint under section 3(1) of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 for restoration of Petition Scheduled land after ejecting the non-tribal respondents.

b. The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District after due enquiry and verification of the records in LTRP No. 146/03, (Sale Deed No. 4679/71) held that pusapati Appala Narasimharaju and Simhadri Raju purchased land measuring Ac.1.44 in Sy No. 21-2 from Datla Venkatapathi Raju along with other lands of total extent of Ac. 30.73 for Rs.22,000/-. The recitals confirm that sale agreement was executed on 01.12.1970, sale amount Rs. 4000/- was paid and land handed over on that day itself and later got registered on 10.10.1971. They also confirm that the sale was executed as the lands became unprofitable and the vendor desired to put the sale amount in the business and vendee agreed to pay higher sale amount than others.

c. Further Submitted that, in LTRP No's. 172/03, 173/03, 174/03, 175/03, 176/03, 179/03, 180/03 are related to the sale deed 4682/71, dt. 10.10.1971, which show that pusapati Krishnam Raju, S/o. Simhadri Raju vendee purchased Petition Scheduled land in Sy. No. 43.2 of Ac.1.28 / Sy.No.52 of Ac. 4.75, Sy.No.53-2 of Ac. 2.53, Sy.No.43-1 of Ac. 7.29 / Sy.No.119-1 of Ac. 3.65 from Datla Padmavathi, Vendor W/o. Venkatapathi Raju (NT) for consideration of Rs. 13,500/-. The recitals confirm that the sale agreement was made on 01.12.1970, by having Rs 3,500/- as advance and handing over land and balance amount paid through pro-note. Further the sale was made due to no profit of Petition Scheduled land situated at far off place and the pusapati Krishnam Raju & others agreed to pay higher sale amount to the lands than others.

d. Hence, the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in exercise of powers U/s 3(2)(a) of APSALTR 1/59 as amended by 1/70 ordered for ejection of Sri Datla Venkatapathi Raju (NT) & (2) others from Petition Scheduled lands in all the nine cases and restoration of the same to the Government for onward distribution to eligible tribals giving preference to the present petitioners Pulli Venkanna & (8) others vide LTRP No's. 146/03, dated: 10.06.2004.

e. Aggrieved by the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District, Sri Datla Venkatapathi Raju, S/o. late Datla Venkatapathi Raju, Laxminarasapuram Village, Anaparthi Mandal, Alluri Siitharamaraju District erstwhile East Godavari District has filed an appeal against the orders of LTRP No.146/2003,

dated. 10.06.2004 before the Addl. Agent to Govt. cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District.

f. After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram has allowed the appeal filed by the Sri Datla Venkatapathi Raju, S/o. late Datla Venkatapathi Raju, Laxminarasapuram Village, Anaparthi Mandal, Alluri Siitharamaraju District with regard to the scheduled property covered by measuring R.S.No.21/2 for an extent of Ac. 1.44 Cents of Rajavommangi (V&M), Alluri Sitharamaraju District and in C.M.A.No.61/2004, dated. 17.09.2005, uphold the orders passed by the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP No. 146/2003, dated. 10.06.2004.

3. Aggrieved by the above orders, Sri Datla Venkatapathi Raju, S/o. late Datla Venkatapathi Raju, Laxminarasapuram Village, Anaparthi Mandal, Alluri Siitharamaraju District has filed a Revision petition dated: 22.10.2005 before the Government of A.P., against the orders of the Addl. Agent to the Govt. cum Project Officer, ITDA, Rampachodavaram, Alluri Siitharamaraju District in C.M.A.No.61/2004, dated.17.09.2005 with a request to grant interim order and suspend the order passed by the Addl. Agent to Govt. cum Project Officer, ITDA, Rampachodavaram in the interest of justice.

4. Meanwhile, the petitioner the Sri Datla Venkatapathi Raju, S/o. late Datla Venkatapathi Raju, Laxminarasapuram Village, Anaparthi Mandal, Alluri Siitharamaraju District has filed W.P.No.24382 of 2005, dated.16.11.2005 before the Hon'ble High Court to suspend the orders in CMA No.61/2004, dated: 17.09.2005 and the Hon'ble High Court while disposing the Writ Petition stayed the orders of the Additional Agent to Government with the dispose of the Revision Petition before the Government.

5. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his letter dated: 17.05.2010 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in C.M.A.No.61/2004, dated. 17.09.2005 and the remarks on the affidavit filed by the Petitioner.

6. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 07.03.2023 duly informing the

same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

(I) This memorandum of Revision Petition is filed against the orders passed in LTRP No. 146/03, dated: 10-06-2004 on the file of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District erstwhile East Godadavari District as confirmed by the order made in CMA No. 61/2004, dated: 17-10-2005 on the file of the Addl.Agent to Government at Rampachodavaram, Alluri Sitharamaraju District restoring the schedule land an extent of Ac.1.44 cents covered by R.S. No. 21/2 of Dusarapamu Village, Rajavommangi Mandal, Alluri Sitharamaraju District to the Government for onward assignment to the eligible tribals preferably to the tribal petitioners in LTRP No. 146/2003 by evicting the non-tribal appellant or any other person bound by the said order from the scheduled lands.

(II) The present Revision Petition was filed originally by Sri Datla Venkatapathiraju who died during the enquiry pending in the Revision Petition. The counsel for the petitioner filed a Petition seeking to bring Smt. Datla Padma Wife of the deceased Sri Datla Venkatapathiraju as a legal representative on record to pursue the case further. Accordingly the Petition was allowed and the proposed petitioner namely Smt. Datla Padma, was brought on record.

(III) The matter came for hearing finally before the Revision Authority on 07-03-2023. Counsel for the Revision Petitioner and the Special Deputy Collector, Rampachodavaram, Alluri Sitharamaraju District were also present. Heard both sides. The following order is made after perusal of the material documents available on the record.

(IV) The main contention of the Revision Petitioner is that the first respondent gravely erred in confirming the order in restoring the land of an extent of Ac. 1.44 Cents in Sy.No.21/2, Vankarai Village of Rajavommangi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District to the Government, and that there was no prohibited transfer involved in the case since land in the case was acquired by the claimants before the commencement of 1/70 Regulation and the Lower Court did not see the merits of their case and passed the impugned Order and finally requested to set aside the orders.

(V) The brief facts of the case reveal that one Sri Pulli Venkanna, S/o. Appanna and (8) others of Dusaripamu (V) of Rajavommangi Mandal, Alluri Sitharamaraju District filed petitions under section 3(1) of AP Scheduled Area

Land Transfer Regulations 1/1959 as amended by Land Transfer Regulation 1/1970 for the restoration of the land admeasuring Ac. 1.44 Cents (LTRP No.146/03) covered by R.S.No.21/2 of Dusaripamu (V) of Rajavommangi (M), Alluri Sitharamaraju District among other lands, which are under the occupation of Datla Venkatapathiraju and Pusapati Krishnam Raju, resident of Laxmi Narasapuram (V) of Anaparthy Mandal, who are said to be the Non-tribals. The said petitions were numbered as LTRP Nos. 146/03, 171/03, 172/03, 173/03, 174/03, 175/03, 176/03, 179/03 and 180/2003. The Special Deputy Collector, Tribal Welfare, Rampachodavaram, Alluri Sitharamaraju District passed a common order dated: 10.06.2004 for all the referred LTRP cases holding that a transfer was effected between non-tribal parties through as a agreement dated: 01.12.1970 and its related sale bearing deed No. 4675/1971, dated: 10.10.1971 are in violation of sub section (1) of Section 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 as amended by the Regulation 1 of 1970 which came into force on 03.02.1970.

(VI) Aggrieved by the said orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District the unsuccessful Sri Datla Venkatapathi Raju filed an appeal before the Addl.Agent to Government, Rampachodavaram, Alluri Sitharamaraju District. The Addl. Agent to Government, Rampachodavaram, Alluri Sitharamaraju District held that the sale held on the scheduled lands which situated in scheduled area through a sale deed No. 4675/71, dated: 10.10.1971 is hit by the provisions of the Land Transfer Regulation 1 of 70.

(VII) The Addl.Agent to Government, Rampachodavaram, Alluri Sitharamaraju District held that "as per the Land Transfer Regulation the transfer of lands situated in the Scheduled Areas between the non tribals is prohibited as such the sale deed is and void" while upholding the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District. The present Revision Petition is filed against the said impugned order passed by the Addl.Agent to Government, Rampachodavaram, Alluri Sitharamaraju District.

(VIII) Now, the point for consideration is whether the sale effected between the non-tribal parties through a sale deed bearing No. 4675/71, dated: 10-10-1971 is hit by the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 or not?

(IX) Admittedly, the schedule lands are situated in the Scheduled Area of Rajavommangi (V & M), of Alluri Sitharamaraju District erstwhile East Godavari District. The material papers show that a sale agreement dated: 01-12-1970 and subsequent registration of the said sale through a sale deed bearing No. 4675/71, dated: 10.10.1971 was effected between non tribals after commencement of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70.

(X) Section 3(1)(a) prohibits transfer of immovable property situated in the agency tracts by a person whether or not such person is a member of a Scheduled Tribe except to persons or societies mentioned therein. By A. P. Regulation I of 1970, which came into force with effect from 03-02-1970, even transfers made by a non-tribal to a non-tribal of land in the agency tracts were declared as void.

(XI) It is relevant to cite here the case of V. Somalamma Vs. Dy. Collector, Tribal Welfare, 1993 (1) ALT 403 (F.B.) where in a Full Bench of the Hon'ble High Court observed that all laws made applicable to the Scheduled areas "indicate an anxiety to safeguard the interest of the tribals in the scheduled areas and to see that the land in the scheduled areas should be in possession of tribals only".

(XII) The full bench of the Hon'ble High Court of AP held further that in the case of a transfer of land situate within the scheduled area by a non-tribal in favour of another non-tribal which is absolutely void under the provisions of sub section (1) of section 3, the non-tribal transferor is not entitled to have the land restored to him and that Clause (a) of subsection (2) of Section 3 of Regulation I of 1959, as amended by Regulation I of 1970, has no application to such a transfer. Even the transferee-non-tribal is also not entitled to retain the property.

(XIII) Therefore the claim of the Revision Petitioners on the basis of such sale agreement and sale deeds which were effected between the non-tribal parties after the commencement of the provisions of AP Scheduled Area Land Transfer Regulations 1 of 70 is legally not tenable. Hence, the Revision Petitioner or any person bound by the said impugned order are not entitled to continue in the possession of such land situated in the scheduled area which was acquired through illegal transactions.

(XIV) The above foregoing discussion, there is no valid ground to interfere with the order impugned in the Revision Petition. The impugned order passed by the Addl. Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No 61/2004, dated: 17-10-2005 is hereby upheld. In the result, Revision Petition is dismissed. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

7. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 3 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.61/2004, dated:17.09.2005 are hereby upheld and the Revision petition filed by Sri Datla Venkatapathi Raju, S/o. Datla

Venkatapathi Raju, Laxminarasapuram Village, Anaparthi Mandal, Alluri Siitharamaraju District with regard to land an extent of Acs.1.44 in Sy.No.21/2 situated at Dusaripamu (V), Rajavommangi Mandal, Alluri Siitharamaraju District erstwhile East Godavari District is Dismissed and Interim orders passed if any are hereby vacated in the matter.

8. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter. Accordingly, acknowledge the receipt of the case records, which are returned herewith to the Addititional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

9. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

TO
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.

The Additional Agent to Govt. cum Project Officer, ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e)
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Rajavommangi (M),
Alluri Sitharamaraju District.
Sri Kola Satyaprasad, Advocate, Rampachodavaram,
Alluri Sitha Ramaraju District, PIN-533288.
Sri Datla Venkatapathi Raju, S/o. Datla Venkatapathi Raju,
R/o.Dasapalla Hills, D.No.11-8-1A, Near Navy House,
Road No, 2A, Visakhapatnam. PIN-530002.

Copy to:
The P.S. to Hon'ble Dy. Chief Minister (TW)
The P.S. to Secretary (TW).
The Commissioner of Printing, Stationery (for Publication in the AP Gazette),
Vijayawada.
SF/SC.

//FORWARDED:: BY ORDER//

SECTION OFFICER